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No. 80/112

August 8, 1980

TO COUNTY ASSESSORS:

MOBILEHOMES SUBJECT TO PROPERTY TAXATION

As you are all aware legislation enacted in 1979 provided (1) that beginning January 1, 1980, mobilehomes placed upon permanent foundation systems were subject to property taxation (Assembly Bill 887) and (2) that beginning July 1, 1980, mobilehomes sold new on and after July 1, 1980, were subject to property taxation (Senate Bill 1004). Senate Bill 1004 also provided that mobilehomes sold prior to July 1, 1980 but whose license fee was delinquent 120 days or more as of July 1, 1980, were subject to property taxation. Senate Bill 1422, which was signed by the Governor on June 30, 1980, and as urgency legislation, took immediate effect, adds, amends, and clarifies various provisions of both Assembly Bill 887 and Senate Bill 1004.

Mobilehomes Placed Upon Permanent Foundation Systems

Assessors' Letter 80/4 issued on January 11, 1980 discussed the statutes applicable to mobilehomes that were placed upon foundation systems. Senate Bill 1422 made the following material amendment affecting these properties.

Assembly Bill 887 amended Health and Safety Code, Section 18551 to provide a procedure for placing mobilehomes upon foundation systems. Senate Bill 1422 further amended the section to provide for procedures to be followed in the event a mobilehome is to be subsequently removed from a foundation system. The amendment provides for notification to the assessor 30 days prior to the intended removal. Once removed, it again becomes a mobilehome subject to registration and vehicle license fees or property taxes depending upon whether it was originally sold new prior to July 1, 1980, or on or after that date.

Other Mobilehomes Subject to Property Taxes

Senate Bills 1004 and 1422 both provide that mobilehomes sold new on and after July 1, 1980 become permanently subject to property taxation, as do those whose license fee is 120 days or more delinquent as of July 1, 1980 and thereafter.

Following is a discussion of the pertinent sections of the Health and Safety Code, the Vehicle Code, and the Revenue and Taxation Code as added or amended by Senate Bill 1422:

(1) Added Health and Safety Code Section 18607 which requires that mobilehome park operators or owners keep sufficient records in order to report to the assessor mobilehome activity within the park from March 1 to March 1. Also, commencing January 1, 1982, requires that the operators maintain duplicate registration cards of all mobilehomes within the park and make them available for review by the assessor.

(2) Amended Revenue and Taxation Code, Section 62(q) to exclude mobilehomes on leased land from the 35 year lease presumption applicable to homes eligible for the homeowners' exemption. Thus, the transfer of a lessee's interest in a park space occupied by a mobilehome eligible for the homeowners' exemption does not constitute a change of ownership of the land (park space).

(3) Amended Revenue and Taxation Code Section 441 to exclude the owner of a taxable mobilehome costing \$30,000 or more from the requirement to file a property statement.

(4) Added Revenue and Taxation Code Sections 5800 through 5804.

These sections define the base year value of a taxable mobilehome as the full cash value on the date the mobilehome is first purchased or changes ownership. The base year value of a mobilehome with delinquent license fees is its full cash value as of the lien date it is first enrolled. The base year value of new construction is its full cash value on the date completed or the full cash value on the lien date if uncompleted. Section 5803 provides that the full cash value of a mobilehome shall include any awnings, cabanas, ramadas, storage cabinets, carports, fences, windbreaks or porches sold with the mobilehome; but, must exclude any "site" value. "Site" value is defined as any value attributable to a particular rented site that would make the sales price of the mobilehome at that location different from the price of the mobilehome at any other rented location. Based upon particular circumstances the site value could be either positive or negative.

(5) Added Revenue and Taxation Code Sections 5810 through 5813.

These sections provide that the base year value of a mobilehome is entered on the roll for the lien date following either (1) date of purchase, (2) change of ownership, (3) 121st day following license fee delinquency, or (4) day of discovery of a mobilehome that is 120 days or more delinquent in its license fee where no delinquency notice has been issued by the Department of Motor Vehicles (DMV).

Section 5813 provides that after the original base year value, for subsequent years the taxable value will be the lesser of (1) the base year value adjusted by an inflation factor or (2) the full cash value.

(6) Added Revenue and Taxation Code Sections 5814 through 5820.

These sections provide that the general guidelines constituting a change of ownership for other properties shall apply to mobilehomes,

(including the creation, termination, etc., of a leasehold interest of 35 years or more in a mobilehome.

(7) Added Revenue and Taxation Code Section 5825.

This section discusses new construction relating to a mobilehome and sets forth guidelines for its recognition which are similar to those applicable to other property.

(8) Added Revenue and Taxation Code Sections 5830 through 5832.

Section 5830 provides that the assessment of mobilehomes shall be entered upon the secured roll. They may serve as their own security or be secured to real property owned by the same assessee. If enrolled as their own security, delinquent fees and penalties may be collected under the same procedures as applies to unsecured property. Additionally, if delinquent taxes are not collected at the time of sale of property to the state, then the assessment shall be transferred to the unsecured roll.

The section also provides for payment of the taxes in two installments.

Section 5831 provides for notification to the assessee where the taxable value has increased, other than increases resulting from the inflation factor. Notification to the assessee and the legal owner, if any, is required where a mobilehome will be enrolled due to the license fee being 120 days or more delinquent.

Section 5832 provides for tax clearance certification issued by the tax collector prior to the transfer of registration of a used mobilehome subject to property taxes.

(9) Added Revenue and Taxation Code Sections 5840 through 5842.

These sections require that each mobilehome park operator file a report with the assessor listing various information pertinent to mobilehomes within the park. The first report covers all mobilehomes within the park as of July 1, 1980. Subsequent reports are as of March 1, and cover all mobilehomes moved into the park from March 1, of the previous year.

(10) Amended Revenue and Taxation Code Sections 6012.8 and 6012.9.

C These sections provide that, for mobilehomes sold new on or after July 1, 1980, the sales tax applies to 75 percent of the price to the retailer. Also, the retailer is considered the consumer. This procedure applies to mobilehomes placed upon foundation systems as well as mobilehomes placed in parks, providing they will be occupied as residences. Subsequent resales will be exempt from sales tax. For valuation purposes, sales tax would be part of the dealer's cost rather than an add-on to the consumer price.

(11) Renumbered and amended Revenue and Taxation Code Section 10759.5.

This section provides that the 120 day license fee delinquency does not apply to a mobilehome during the period it is subject to a probate proceeding. A mobilehome becomes "subject to probate" at time of death of the owner. If a mobilehome is 120 or more days delinquent at that time, it automatically comes under property taxes. However, if it is less than 120 days delinquent at death of the owner, the delinquency is forgiven, and counting the delinquent days starts over upon termination of probate.

DMV only becomes aware of a probate when a change of registration is requested. So there will be instances when DMV will report a mobilehome as delinquent, but the mobilehome may have entered probate or had become subject to probate prior to the 120 days. In these instances, the delinquent billings and assessment proceeding will have to be canceled.

This section also provides that the delinquent fees and penalties reported by the DMV may be placed upon the secured roll or the unsecured roll. The State Controller's Office is recommending to tax collectors that the delinquent fees be placed on the unsecured roll.

The section also provides that, where the amount of delinquent fees are unknown by the Department of Motor Vehicles, a penalty for failing to register should be calculated at the larger of \$100 or 8 percent of the current value of the mobilehome. The current value in this instance would be the market value upon date of discovery. These fees may be added to the secured roll or may be billed and collected as unsecured taxes. Again, the State Controller is advising the tax collectors that the penalties should be placed on the unsecured roll. (See Question and Answer 21 regarding appeal procedure.)

Section 10759.5 also provides that upon transfer of registration of a mobilehome whose license fee is 120 days or more delinquent, the delinquent fees are the liability of the seller. If the mobilehome is being acquired from a dealer, the amount of delinquent fees will normally be collected by the escrow officer then submitted to the county of situs of the mobilehome.

Section 10759.5(f) provides that disputes over the amount of the delinquent fees should be appealed to the Department of Motor Vehicles, after first paying the amount due to the tax collector. The Department of Motor Vehicles will then notify the tax collector if refunds are in order.

(12) Amended Revenue and Taxation Code Section 11914 to provide that mobilehomes in dealers' inventories are exempt from documentary transfer taxes.

(13) Added Vehicle Code Section 4602.2 to provide that commencing January 1, 1982, mobilehome registration cards shall be in two parts with one part retained by the park operator.

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(14) Amended Vehicle Code Section 5357 to provide that the Department of Motor Vehicles shall provide the assessor a monthly listing of mobilehomes whose registration and license fee has become 120 days or more delinquent since the previous listing. The section also provides that beginning July 1, 1981, the monthly listing shall include new registrations and transfers of title that have occurred since the previous list.

(15) Added Vehicle Code Section 5400 requiring that mobilehomes subject to property taxation are to be registered with the Department of Motor Vehicles only upon sale or resale.

(16) Added Vehicle Code Section 5405 providing that the Department of Motor Vehicles withhold registration of a used mobilehome subject to property taxation until a tax clearance certificate is received from the county tax collector.

(17) Amended Vehicle Code Section 5901 requiring that a dealer selling a new or used mobilehome shall give the assessor a written notice of the mobilehome sale together with pertinent information regarding the mobilehome and accessories included.

This pertains to all mobilehomes sold by dealers, whether subject to property tax or not.

Section 5901(d) defines a "sale" as occurring when the purchaser has paid the purchase price or signed a purchase contract and taken physical delivery of the mobilehome.

(18) Under the general law provisions of the legislation, Section 19 provides that Department of Motor Vehicles shall furnish the assessors the July 1, 1980 delinquent listing by September 1, 1980. Section 21 clears up the question of when the 120 day delinquency starts. It provides that mobilehomes, whose license is delinquent 120 days or more as of July 1, 1980, shall be subject to property taxes.

This covers the major provisions of SB1422. Enclosed are a series of questions and answers which should be helpful in implementing the various provisions of the legislation.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

VW:ebv
Enclosures
4-5-0358A

The following questions and answers pertain to the application of Senate Bill 1422 to Mobilehome Assessments:

QUESTION 1: What qualifies as a mobilehome for purposes of property taxation?

ANSWER: Although the Health and Safety Code and the Vehicle Code differ as to what constitutes a mobilehome, both codes agree that it must be designed and equipped for occupancy as a residence. The Vehicle Code requires that it be either over eight foot wide or over 40 foot long. The Health and Safety Code only requires that it have 220 or more square feet of living space, excluding built-ins, etc. A unit meeting the design and equipment requirements will have a red-colored insignia attached stating it meets the federal and state requirements as a mobilehome. All units sold new on and after July 1, 1980 that qualify as a mobilehome will be subject to property taxes regardless of intended use.

QUESTION 2: What avenues of discovering taxable mobilehomes are provided by SB 1422?

ANSWER: There are numerous avenues of discovery provided by SB 1422 including the following:

- (a) Health and Safety Code Section 18551 requires a building permit prior to placing a mobilehome on a foundation system. It also requires recordation of the certificate of occupancy. The section also requires notification to the assessor prior to removing a mobilehome from a foundation.
- (b) Health and Safety Code Section 18613.2 (as added by SB 1004) requires the issuance of an installation permit prior to a mobilehome being moved to a site. A copy of the permit must be forwarded to the assessor.
- (c) Revenue and Taxation Code, Section 5841 requires that a mobilehome park operator report to the assessor all mobilehomes within the park as of July 1, 1980, and as of March 1, thereafter.
- (d) Vehicle Code Section 4602.2 requires that, as of January 1, 1982, a mobilehome park operator shall retain a duplicate copy of all mobilehome registration cards within the park. Also, Health and Safety Code, Section 18607 requires that the duplicate registration be made available to the assessor, upon request. (A note of caution--don't expect the operator to have duplicates on all

mobilehomes as of January 1982, duplicates will be issued during the year as registrations occur or upon transfer.)

- (e) Section 480 of the Revenue and Taxation Code (as amended by SB 1004) requires the filing of a change of ownership statement when a taxable mobilehome, other than one sold new, is transferred.
- (f) Revenue and Taxation Code Section 5832 requires the issuance of a tax clearance by the tax collector before the registration of a taxable mobilehome will be transferred.
- (g) Vehicle Code Section 5357 provides that DMV shall furnish a monthly listing of mobilehomes with delinquent registrations. Also, as of July 1, 1981, DMV must add to the monthly listing all new registrations and transfers. SB 1422 also provides that DMV shall furnish the assessor a listing of all 120 day or more delinquent registrations as of July 1, 1980. The listing must be supplied by September 1, 1980.
- (h) DMV supplies a listing to the county auditors for distribution of license fees to the local agencies. This list contains information on each mobilehome whose license has been renewed during the six-month periods January through June and July through December. Perhaps a match could be made between DMV's delinquency list, the license fee list to the county auditors, and the park operator's report. Those on the operator's report but not on either list would indicate mobilehomes that may be delinquent prior to December 1975.
- (i) Vehicle Code Section 5901 requires all dealers to report sales of all mobilehomes to the assessor.

QUESTION 3: Will mobilehomes be subject to the same value limitations as real property?

ANSWER: Mobilehomes that are subject to property taxes due to their being sold new on or after July 1, 1980, or due to their license fee being delinquent 120 days or more, are subject to the same base year value limitations as apply to real property. (See Question 4 for determination of base year value.)

QUESTION 3a: Are mobilehomes that are subject to property taxes and located within a mobilehome park to be classified as personal property or improvements?

ANSWER: Section 5810 of the Revenue and Taxation Code implies that they are personal property. However, classification of property is the responsibility of the assessor through use of the guidelines established by the courts.

QUESTION 4: As of what point in time is the base year value established?

ANSWER: For mobilehomes sold new and those transferring, the base year value is the full cash value as of the date of sale or transfer. For mobilehomes whose license fee is 120 days or more delinquent the base year value will be the full cash value as of the lien date following (1) the 121st day of delinquency if contained on DMV's delinquency list or (2) the date of discovery if not on DMV's delinquency list.

These provisions present several complications, some of which are as follows:

- (1) For a mobilehome that is delinquent 120 days or more, the full cash value shall be determined as of the subsequent lien date. However, for a mobilehome already subject to taxation, the full cash value is determined as of the date of transfer. Suppose a mobilehome is 120 days delinquent as of April 1, 1981, then sold on June 10, 1981. Would the full cash value be established on the 1982 lien date or June 10, 1981?

The full cash value would be determined as of June 10, 1981 (the date of transfer) and enrolled on the 1982-83 assessment roll.

- (2) According to the Vehicle Code, a mobilehome's registration and license fee expires at midnight on the last date of the month, and becomes delinquent as of 12:01 a.m., the following day.

Assume a mobilehome's license expires on October 31, 1980. February 28, 1981 would be the 120th day of delinquency and March 1, 1981 would be the 121st day of delinquency. Upon notification of the delinquency by DMV, the assessor would determine the full cash value as of March 1, 1982 (lien date following the 121st day of delinquency) and enroll it on the 1982-83 assessment roll.

One could ask why the mobilehome isn't enrolled as of March 1, 1981, since it became 120 days delinquent as of midnight on February 28. We believe the law should provide for enrollment on the lien date following the 120th day of

delinquency rather than the 121st day. We will seek corrective legislation..

QUESTION 5: Should accessories such as awnings, skirtings, etc. be included in determining the full cash value of the mobilehome?

ANSWER: Revenue and Taxation Code Section 5803 defines the full cash value of a mobilehome as including any value attributable to accessory buildings or structures which are sold along with the mobilehome. We believe it is correct to include the value of all assessable accessories owned by the owner of the mobilehome and which would be transferred upon sale of the mobilehome. Exceptions would be the household furnishings and personal effects exempt under Section 224 of the Revenue and Taxation Code.

QUESTION 6: Revenue and Taxation Code Section 5841 requires all mobilehome park operators to file certain reports with the assessor as of specific times; what recourse does the assessor have for park operators who refuse to comply?

ANSWER: Section 5841 is mute on this point.

QUESTION 7: What constitutes a mobilehome park for purposes of the reporting required under Section 5841?

ANSWER: Health and Safety Code Section 18214 defines a mobilehome park as an area where two or more mobilehome lots are rented or offered for rent.

QUESTION 8: Since mobilehomes that are classified as personal property and in a dealer's inventory on the lien date are exempt as business inventory, at what point are they considered to have left the dealer's inventory, and thus, become subject to property taxes?

ANSWER: Since Vehicle Code Section 11950 requires (with certain exceptions) that dealer sales of used or new mobilehomes must be placed in escrow, the transfer out of dealer inventory would occur at close of escrow. This normally occurs when the mobilehome has been placed on site and the certificate of occupancy has been issued. Additionally, Vehicle Code Section 5901(d) defines a "sale" involving a dealer as occurring when the purchaser has paid the purchase price or signed a purchase contract and taken possession of the mobilehome.

QUESTION 9: When will the Department of Motor Vehicles supply the assessors with a list of mobilehomes whose owners are 120 days or more delinquent in renewing the license?

ANSWER: Senate Bill 1422, General Law Section 19, provides that DMV shall, by September 1, 1980, supply the assessor a list of mobilehomes whose license fees are 120 days or more delinquent as of July 1, 1980. A listing will be issued monthly thereafter.

QUESTION 10: How should such delinquent fees be enrolled?

ANSWER: Revenue and Taxation Code Section 10759.5 provides that such fees may be entered on either the secured or unsecured roll. As indicated earlier, the State Controller has suggested use of the unsecured roll to the tax collectors.

QUESTION 11: What if the mobilehome owner protests the amount of the delinquent fees?

ANSWER: Revenue and Taxation Code Section 10759.5(f) provides that the mobilehome owner should pay the protested fees, then appeal to the Department of Motor Vehicles.

QUESTION 12: How should the assessor proceed when he discovers a mobilehome whose license has obviously expired for 120 days or more?

ANSWER: First, he should determine how long it has been delinquent. If the delinquency was prior to December 1975, DMV will probably not have a record of it. In this instance the assessor should appraise the mobilehome currently and calculate the amount of delinquency penalty due of \$100 or 8 percent of the full cash value, whichever is greater. The penalty is then placed on either the secured or unsecured roll.

If the delinquency was subsequent to December 1975, he should verify that the mobilehome is on the delinquency list from DMV.

Enrollment of Mobilehome

If delinquent prior to December 1975, the mobilehome should be appraised and enrolled on the secured roll as of the lien date following discovery or, if it was on the delinquency list from DMV, it should be appraised and enrolled as of the lien date following the 121st day of delinquency. Notification must then be sent to the mobilehome assessee and to the legal owner.

For instance, assume a mobilehome's license fee expired on December 31, 1980 and is not renewed, DMV would notify the assessor probably on the list for May 1981. The notification would indicate the delinquency date and fees due. The tax collector would place the fees on the secured or unsecured roll. However, enrollment of the

mobilehome would not occur until the 1982 lien date since the required period of delinquency occurs after March 1, 1981. Also, the full cash value will be determined as of the 1982 lien date.

QUESTION 13: A mobilehome's license fee expires on September 30, 1980. On January 26, 1981, it is sold to a dealer. At this point it is 118 days delinquent. What are the problems and alternatives that may occur?

ANSWER: When a mobilehome with a delinquent license fee is sold to a dealer, the delinquent days continue to accumulate. Assuming the dealer does not pay the delinquency fees by January 28, 1981, then the mobilehome becomes subject to property taxes. However, since the mobilehome is personal property held for sale by the dealer, it would be exempt as business inventory if still held by the dealer on the lien date. (Note: a dealer may move an acquired mobilehome to his sales lot, or keep it installed on site. If left on site, then providing the assessor classifies it as an improvement, it would not be eligible for the inventory exemption and would be taxable to the dealer.) Assuming the mobilehome qualifies for the inventory exemption, it is exempt in the dealer's hands but will become taxable to the purchaser as of the next lien date. The assessor will be made aware of the purchaser, since Vehicle Code Section 5901 requires the dealer to report the sale to the assessor.

There is a problem we might point out. Assume the dealer pays the delinquent fees within the 120 day period by placing sufficient funds on deposit with DMV. He then receives a "suspense receipt." Apparently, DMV's recordkeeping does not pick this up as a renewal of license. Thus, as sufficient time passes, DMV will notify the assessor that the mobilehome fees are delinquent. The assessor must then track down the mobilehome to the dealer only to learn that the license was renewed in time.

QUESTION 14: Is the period of time a mobilehome is in probate counted in determining the 120 day delinquency?

ANSWER: No. Revenue and Taxation Code Section 10759.5 provides that the period a mobilehome is in probate is excluded in determining the 120 day delinquency. See the discussion of Section 10759.5 in the cover letter for additional comments.

QUESTION 15: What happens where a mobilehome that has been on a permanent foundation and taxed as real property is then removed from the foundation?

ANSWER: Health and Safety Code Section 18551 requires that the assessor be notified of such intended removal 30 days in

advance. Once removed it is again subject to either license fees or property taxation dependent upon date first sold.

QUESTION 16: Are mobilehomes sold out-of-state then moved into California subject to license fees or property taxes?

ANSWER: Mobilehomes first sold out-of-state then moved into California are then subject to the same provisions as those first sold in California. That is, if sold new on July 1, 1980, or thereafter, they are subject to property taxes. If sold new prior to July 1, 1980, they are subject to license fees until such time as they may become delinquent 120 days or more.

QUESTION 17: Assume a mobilehome whose license fee has been delinquent for four years was in county "A" the first two years, then moved to county "B" for the last two years without renewing the license. Which county gets the delinquent fees?

ANSWER: County B. In prior years, it has been DMV's policy upon collecting delinquent licenses to forward all the delinquent license fees to the county of current situs. We suggest that this practice continue, since it would be difficult to establish the amount of time spent in each county.

QUESTION 18: Are all mobilehomes subject to property taxes if they transfer ownership after July 1, 1980?

ANSWER: No. A mobilehome first sold prior to July 1, 1980, whose license fee is kept current or is not placed upon a permanent foundation on the owner's land, never becomes subject to property taxes regardless of the number of times it transfers ownership.

QUESTION 19: Where a mobilehome's license has been delinquent for five or six years, may the assessor enroll escapes for those years in addition to the penalty for failure to register of \$100 or 8 percent of current value?

ANSWER: No. The mobilehome was subject exclusively to vehicle license fees during the period of delinquency. Since it was not subject to property taxes during that period, there can be no escape assessment. In addition the 8 percent failure to register penalty is intended to approximate the maximum delinquency fees collectible through DMV.

QUESTION 20: Will there be instances when the period covered by delinquency fees will overlap the assessment fiscal year?

ANSWER: Yes. However, there will also be periods that will not be covered by either the delinquent fees or property taxes.

For instance, a license fee covering the year September 30, 1980 through September 30, 1981 is not renewed. One hundred twenty days later on January 28, 1981, the mobilehome becomes subject to property taxes plus delinquent fees covering the September 30, 1980 through September 30, 1981 period are due. The delinquent fees are enrolled and the mobilehome is placed upon the March 1, 1981 secured roll. In this instance, there will be an overlap of fees from July 1, 1981 (beginning of the 1981-82 property tax fiscal year) to September 30, 1981, (end of the delinquent license fee period) a period of approximately three months.

Conversely, where a license fee is expired on October 31, 1980, the mobilehome becomes subject to property tax on March 1, 1981, but is not enrolled until March 1, 1982 (lien date following the 121 day delinquency). This yields a period from November 1, 1981 until July 1, 1982, approximately 8 months, not covered by either tax.

QUESTION 21: Senate Bill 1422 provides for DMV's calculated delinquency fees to be appealed directly to DMV, but is silent on appeal of the failure to register penalty of \$100 or 8 percent of current value. Is this penalty subject to appeal?

ANSWER: Yes. Since the current value would be calculated by the assessor and the penalty entered on the roll, the assessor's value would be subject to appeal in the same manner and time periods as other assessments.

QUESTION 22: What happens if one side of a double-wide mobilehome is currently licensed and the other side is allowed to go delinquent 120 days or more?

ANSWER: According to DMV, they will notify the assessor that the one side is delinquent. If one side goes delinquent, the entire mobilehome becomes subject to property taxes and should be assessed as of the next lien date.

QUESTION 23: Will commercial coaches become subject to property taxation if their license fee is delinquent 120 or more days or if sold new on or after July 1, 1980?

ANSWER: Commercial coaches are specifically excluded from coming under property taxation. Only those units designated as mobilehomes through an insignia issued by either the California Department of Housing and Community Development or the Federal Housing and Urban Development qualify for property taxation.